

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HOUSE BILL 2501

AN ACT

AMENDING TITLE 36, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-116; RELATING TO THE TRANSFER OF HEALTH PROFESSION REGULATORY BOARDS TO THE DEPARTMENT OF HEALTH SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 36, chapter 1, article 1, Arizona Revised Statutes,
3 is amended by adding section 36-116, to read:

4 36-116. Director; review of board-proposed rules; board
5 decisions; definition

6 A. BEFORE A HEALTH PROFESSION REGULATORY BOARD FILES A PROPOSED RULE
7 WITH THE GOVERNOR'S REGULATORY REVIEW COUNCIL, THE DIRECTOR SHALL REVIEW THE
8 PROPOSED RULE. THE DIRECTOR MAY REJECT A PROPOSED RULE IF THE PROPOSED RULE
9 EITHER:

10 1. WOULD HAVE A MATERIAL ANTICOMPETITIVE EFFECT AND THE PROPOSED RULE
11 IS NOT NECESSARY TO PROTECT PUBLIC HEALTH AND SAFETY, UNLESS THE PROPOSED
12 RULE IS REQUIRED BY LAW.

13 2. WOULD HAVE A MATERIAL ANTICOMPETITIVE EFFECT AND THERE IS A LESS
14 RESTRICTIVE MEANS AVAILABLE TO PROTECT PUBLIC HEALTH AND SAFETY.

15 B. THE DIRECTOR MAY REVIEW ANY HEALTH PROFESSION REGULATORY BOARD
16 DECISION ON REQUEST BY ANY PARTY AS DEFINED IN SECTION 41-1001 WITHIN FIFTEEN
17 DAYS AFTER THE BOARD'S DECISION IS MADE AND AFTER THAT PARTY HAS EXHAUSTED
18 ITS ADMINISTRATIVE REMEDIES AS REQUIRED BY SECTION 41-1092.09, SUBSECTION B.
19 THE BOARD'S DECISION REMAINS IN EFFECT UNTIL THE DIRECTOR HAS COMPLETED THE
20 REVIEW. THE DIRECTOR SHALL COMPLETE THE REVIEW OF THE HEALTH PROFESSION
21 REGULATORY BOARD'S DECISION WITHIN THIRTY DAYS AND MAY OVERTURN THE DECISION
22 FOR ANY OF THE FOLLOWING REASONS:

23 1. THE DECISION WOULD HAVE A MATERIAL ANTICOMPETITIVE EFFECT AND IS
24 NOT NECESSARY TO PROTECT PUBLIC HEALTH AND SAFETY, UNLESS THE DECISION IS
25 REQUIRED BY LAW.

26 2. THE DECISION WOULD HAVE A MATERIAL ANTICOMPETITIVE EFFECT AND THERE
27 IS A LESS RESTRICTIVE MEANS AVAILABLE TO PROTECT PUBLIC HEALTH AND SAFETY.

28 C. IF THE DIRECTOR REJECTS A PROPOSED RULE, THE DIRECTOR SHALL PROVIDE
29 THE HEALTH PROFESSION REGULATORY BOARD WITH A WRITTEN EXPLANATION OF THE
30 REASONS SUPPORTING THE DECISION. IF THE DIRECTOR OVERTURNS A HEALTH
31 PROFESSION REGULATORY BOARD'S DECISION IN WHOLE OR IN PART, THE DIRECTOR'S
32 DECISION IS THE FINAL AGENCY DECISION FOR THAT BOARD. THE DIRECTOR SHALL
33 SERVE A COPY OF THE DECISION ON THE BOARD AND ALL PARTIES WITH A WRITTEN
34 EXPLANATION OF THE REASONS SUPPORTING THE DIRECTOR'S DECISION.

35 D. IF THE DIRECTOR FAILS TO COMPLETE THE REVIEW OF THE HEALTH
36 PROFESSION REGULATORY BOARD'S DECISION WITHIN THIRTY DAYS AS REQUIRED IN
37 SUBSECTION B OF THIS SECTION, THE DECISION OF THE BOARD IS THE FINAL AGENCY
38 DECISION.

39 E. A PARTY IS NOT REQUIRED TO FILE A REQUEST FOR REVIEW PURSUANT TO
40 SUBSECTION B OF THIS SECTION TO EXHAUST THE PARTY'S ADMINISTRATIVE REMEDIES.
41 IF A PARTY CHOOSES NOT TO FILE A REQUEST FOR REVIEW PURSUANT TO SUBSECTION B
42 OF THIS SECTION, THE HEALTH PROFESSION REGULATORY BOARD'S DECISION IS THE
43 FINAL AGENCY DECISION.

44 F. SECTION 41-1092.08 DOES NOT APPLY TO HEALTH PROFESSION REGULATORY
45 BOARDS.

1 G. FOR THE PURPOSES OF THIS SECTION:
2 1. "HEALTH PROFESSION REGULATORY BOARD" MEANS ANY BOARD THAT ISSUES A
3 CERTIFICATE, LICENSE, PERMIT OR REGISTRATION TO A PERSON PURSUANT TO TITLE
4 32, CHAPTER 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 19, 19.1, 25, 28, 29, 33, 34,
5 35, 39 OR 41.
6 2. MATERIAL ANTICOMPETITIVE EFFECT DOES NOT INCLUDE A LICENSING,
7 DISCIPLINARY OR NONDISCIPLINARY ACTION AFFECTING AN INDIVIDUAL LICENSED BY
8 THE HEALTH PROFESSION REGULATORY BOARD MAKING THE DECISION.
9 Sec. 2. Health boards; move to department of health services;
10 schedule; definition
11 A. The following health profession regulatory boards shall move to
12 space under the operation and control of the department of health services in
13 the following fiscal years:
14 1. In fiscal year 2016-2017:
15 (a) Acupuncture board of examiners.
16 (b) State board of dispensing opticians.
17 (c) Board of homeopathic and integrated medicine examiners.
18 (d) Board of occupational therapy examiners.
19 (e) Board of athletic training.
20 (f) Board of respiratory care examiners.
21 2. In fiscal year 2019-2020:
22 (a) State board of podiatry examiners.
23 (b) Naturopathic physicians medical board.
24 (c) State board of optometry.
25 (d) Board of physical therapy.
26 (e) State board of psychologist examiners.
27 (f) State board of chiropractic examiners.
28 (g) Medical radiologic technology board of examiners.
29 3. In fiscal year 2020-2021:
30 (a) Arizona board of osteopathic examiners in medicine and surgery.
31 (b) State board of dental examiners.
32 (c) Board of behavioral health examiners.
33 4. In fiscal year 2021-2022:
34 (a) Arizona regulatory board of physician assistants.
35 (b) Arizona state board of nursing.
36 (c) Arizona medical board.
37 B. Beginning on the effective date of this section, a health
38 profession regulatory board may not enter into any new contract or renew any
39 existing contract that extends beyond July 1 of the respective fiscal year
40 prescribed in subsection A of this section for that board without the
41 approval of the director of the department of health services or the
42 director's designee. The director or the director's designee shall review and
43 approve the contract within ten business days after the contract is
44 submitted. If the review is not completed within ten business days after the
45 contract is submitted, the board may complete the contract without approval

1 by the director or the director's designee. The requirements of this
2 subsection do not apply to contracts relating to discipline, investigations,
3 interagency service agreements or intergovernmental agreements.

4 C. For the purposes of this section, "health profession regulatory
5 board" means any board that issues a certificate, license, permit or
6 registration to a person pursuant to title 32, chapter 7, 8, 11, 13, 14, 15,
7 15.1, 16, 17, 19, 19.1, 25, 28, 29, 33, 34, 35, 39 or 41, Arizona Revised
8 Statutes.

9 Sec. 3. Health profession regulatory boards; executive
10 directors; vacancy; delayed repeal

11 A. Notwithstanding any other law, after the move of the acupuncture
12 board of examiners, the state board of dispensing opticians, the board of
13 homeopathic and integrated medicine examiners, the board of occupational
14 therapy examiners, the board of athletic training and the board of
15 respiratory care examiners to the department of health services in fiscal
16 year 2016-2017, if there is a vacant staff position for an executive director
17 of one of these boards, the respective board or boards may nominate a
18 candidate for that position to the director of the department of health
19 services who shall either accept or reject the nomination. If the nomination
20 is rejected, the board or boards shall send the name of a new nominee to the
21 director. If the board or boards fail to send the name of a nominee to the
22 director within one hundred twenty days after the position becomes vacant,
23 the director shall fill the position. Notwithstanding any other law, each
24 board's executive director shall serve at the pleasure of the director of the
25 department of health services.

26 B. This section is repealed from and after December 31, 2019.

27 Sec. 4. Department of health services; study; report; delayed
28 repeal

29 A. On or before July 1, 2018, the department of health services shall
30 complete a study relating to the move of the acupuncture board of examiners,
31 the state board of dispensing opticians, the board of homeopathic and
32 integrated medicine examiners, the board of occupational therapy examiners,
33 the board of athletic training and the board of respiratory care examiners to
34 the department. In conducting the study, the department shall hold at least
35 one hearing to receive public comments. The study shall address at least the
36 following:

- 37 1. Individual and combined board staffing recommendations, including
38 staffing levels and salaries.
- 39 2. The consolidation of administrative functions.
- 40 3. Areas in which greater efficiencies and cost-effectiveness may be
41 realized.
- 42 4. Possibilities for integrating procedures and practices among the
43 boards.

44 B. The department of health services shall complete the same study
45 prescribed in subsection A of this section on or before October 15 following

1 the fiscal year of the move of each group of health profession regulatory
2 boards. The department of health services shall present the initial report
3 of the study to the house of representatives health committee of reference
4 and the senate health and human services committee of reference, or their
5 successor committees, on or before September 1, 2018, and the subsequent
6 reports on or before November 15 of the relevant fiscal year. The committees
7 of reference shall make legislative recommendations regarding the continuing
8 move of health profession regulatory boards to the department of health
9 services and for any necessary statutory changes.

10 C. This section is repealed from and after December 31, 2023.

11 Sec. 5. Auditor general study; report; delayed repeal

12 A. On or before July 1, 2018, the auditor general shall conduct a
13 study to evaluate the structure, organization and operation of health
14 profession regulatory boards as defined in section 36-116, Arizona Revised
15 Statutes, as added by this act, and make recommendations regarding board
16 processes that can be streamlined to benefit licensees and be more uniform
17 among the boards while protecting public health and safety. The study may
18 not include the merger or elimination of any boards and shall include a
19 comparison of at least the following:

20 1. Fees charged to persons who are regulated by each board and whether
21 the fees are sufficient, insufficient or excessive relative to the board's
22 operating expenses.

23 2. Fingerprinting requirements for licensees.

24 3. The licensing processes of the board.

25 4. Disciplinary proceedings and the adjudication of licensees.

26 5. Investigative procedures.

27 6. Policies, procedures and practices that could apply uniformly to
28 the boards.

29 7. Substance abuse programs for licensees.

30 8. Streamlining the sunset review process of the boards.

31 9. Delivery of legal services by the attorney general's office.

32 B. The auditor general shall present a report of the study to the
33 house of representatives health committee of reference and the senate health
34 and human services committee of reference, or their successor committees, on
35 or before September 1, 2018. The committees of reference shall make
36 legislative recommendations for any necessary statutory changes.

37 C. This section is repealed from and after December 31, 2018.

38 Sec. 6. Legislative intent

39 It is the intent of the legislature that this act will streamline and
40 modernize processes for health profession licensees and certificate holders
41 in this state, promote consistency in the regulation of health professionals
42 and promote administrative efficiencies while ensuring the protection of the
43 public's health and safety.